



2026:AHC-LKO:36632

A.F.R.
Reserved

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 12130 of 2025

Shusheel Tripathi

.....Petitioner(s)

Versus

U.O.I. Thru. Secy. Ministry Of Labour And
Employment New Delhi And 4 Others

.....Respondent(s)

Counsel for Petitioner(s) : Vijay Bahadur Singh, Rohit Kumar
Singh

Counsel for Respondent(s) : A.S.G.I., C.S.C., Ran Vijay Singh

Court No. - 16

HON'BLE SHREE PRAKASH SINGH, J.

1. Heard Mr. Rohit Kumar Singh, learned counsel for the petitioner, learned counsel for the Union of India, Mr. Ran Vijay Singh, learned counsel for the opposite parties no. 2 & 3, learned counsel for the State and perused the record.

2. By means of the present writ petition, the petitioner has sought prayer for directing the opposite party no. 3 i.e. Regional Director, Employees' State Insurance Corporation (ESIC), Regional Office, Kanpur, U.P., for issuance of a joining letter, within the time stipulated by this court.

3. The factual matrix of the case are that the Employees' State Insurance Corporation (hereafter referred to as ESIC) had issued an advertisement on 28-12-2021 for recruitment on the posts of Upper Division Clerks(UDC), Stenographers and Multi-Tasking Staff (MTS) in Uttar Pradesh region of ESIC. The last date of submission of applications was 15-02-2022, against 119 vacancies of Multi Tasking Staff and the process of the

recruitment was to be undertaken within two phases; Phase-I, the preliminary examination and Phase-II, the main examination. The petitioner applied for the post of Multi Tasking Staff (hereinafter referred to as 'MTS') under the unreserved category, through e-applications, on the website of the ESIC and appeared in Phase-I examination and was declared qualified and thereafter, he also appeared in the main examination, which was scheduled to be held on 05-06-2022 at examination centre, Lucknow. The petitioner was shortlisted in the list of additional shortlisted candidates, on 10-06-2024 and was called for the documents verification, scheduled on 20-06-2024, wherein the petitioner appeared and after verification of the documents, he received an offer of appointment alongwith attestation form for the post of MTS, vide e-mail dated 09-07-2024. After receiving the offer of appointment, the petitioner accepted and duly filled the attestation form on 18-07-2024 at the dispatch section of ESIC, Regional Office, Kanpur, wherein the petitioner disclosed the details of two pending criminal cases against him.

4. In furtherance to the shortlisted list of the candidates, the joining letters were issued to them, though the petitioner has not been issued any joining letter and on query being asked, he was informed that he will be issued the joining letter after completion of the police verification. The decision on the police verification is still pending.

5. Contention put forth by the learned counsel for the petitioner is that despite completion of the formalities and submission of the attestation form, the concerned authority did not issue any joining letter to the petitioner, whereas the other similarly situated candidates have already been permitted to join. He added that on 13-02-2025, the petitioner received a reply of letter, wherein it was stated that as per the DoPT letter dated 30-

03-2016, the police verification is a condition precedent prior final acceptance of the appointment and issuance of the joining letter, though subsequent thereof, the petitioner visited the department several times while submitting representations, clarifying the position that in the first information report no. 50 of 2020, the final report no. 57 of 2022, has been submitted by the Investigating Officer concerned.

6. He contends that the criminal history of two cases has been disclosed by the petitioner and there is no concealment as such. He also submits that so far as the N.C.R. 93 of 2015, under sections 323 & 504 of I.P.C. was registered at Police Station-Bhiti, Ambedkar Nagar, the same is pending before the Juvenile Justice Board, wherein he has been declared as juvenile, on 20-12-2024. He submits that in the F.I.R. No. 50 of 2020, under sections 419,420,467,468 & 471 of I.P.C., Police Station-Bhiti, District-Ambedkar Nagar, the investigation has been concluded and the Final Report (Closure Report) No. 57 of 2022, has been submitted before the learned trial court.

7. Adding his arguments, he submits that so far as the N.C.R. No. 93 of 2015 is registered, the petitioner has been declared as juvenile delinquent. He submits that the law is clear that the pendency of any criminal case, would have no bar, in case of juvenile to be appointed in any job/service. He next added that since the first information report has been submitted before the learned trial court and therefore, the same would also not come in the way of the appointment of the petitioner.

8. Concluding his argument, he submits that the petitioner is waiting for his joining since long back and those, who were shortlisted alongwith the present petitioner, have been given joining and they are now continuing in service. Therefore,

submission is that the concerned authority may be directed to issue the joining letter to the petitioner and to appoint him on the post of M.T.S.

9. Contrary, submission of learned counsel for the opposite parties no. 2 & 3 is that though an offer of appointment was issued to the petitioner on 09-07-2024, but, the joining has been withheld due to disclosure of two criminal cases and the adverse police verification report. He submitted that the petitioner had moved a representation with respect to his claim on 18-08-2025, which has been referred for legal opinion and therefore, submission is that the relief sought by the petitioner is premature and is not maintainable.

10. Upon considering the submissions of learned counsels for the parties and after perusal of records, what apparent is that the admitted fact in between the parties is that after the completion of the main examination for the post of M.T.S., the offer of appointment was issued to the petitioner, on 09-07-2024 and because of the disclosure of two criminal cases by the petitioner, issuance of joining letter has been withheld. The details of two criminal cases are given as follows :-

(i) N.C.R. No. 93 of 2015, under sections 323 & 504 of I.P.C., Police Station-Bhiti, Ambedkar Nagar.

(ii) F.I.R. No. 50 of 2020, under sections 419,420,467,468,471 of I.P.C., Police Station-Bhiti, District-Ambedkar Nagar

11. Though, it seems that there is no denial letter or any decision taken by the authority for non issuance of the joining letter, but the same has not been issued as yet, whereas the statement made in the Counter Affidavit filed by the opposite parties no. 2 & 3 is apparent that because of the abovenoted two criminal cases,

pending against the petitioner, the joining letter has not been issued and further, the matter is referred to the headquarter for legal opinion, which is still pending consideration.

12. When this court examines the question that whether the pendency of the abovenoted two cases can be absolute bar for issuing the joining letter to the petitioner, it emerges that out of two criminal cases, one case is registered as N.C.R. No. 93 of 2015, under sections 323 & 504 of I.P.C., wherein the petitioner is declared as juvenile delinquent on 20-12-2024.

13. In this regard, section 19 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as 'Act, 2000'), is relevant, which reads as under :-

'19. Removal of disqualification attaching to conviction :- (1) Notwithstanding anything contained in any other law, a juvenile who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attaching to a conviction of an offence under such law.

(2) The Board shall make an order directing that the relevant records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period as prescribed under the rules, as the case may be.'

14. A bare reading of the abovesaid provision, makes it abundantly clear that the juvenile, who is alleged to have committed any offence and has been dealt with under the provision of the 'Act, 2000', would not suffer any disqualification since his/her conviction, though this provision does not disclose regarding any impact. Thus, the intent of the legislature is very clear that such juvenile even convicted for an offence, would not make him disqualified.

15. I am aware of the law rendered by the Hon'ble Apex Court in the case of **Union of India And Others Versus Ramesh Bishnoi**, reported in (2019) 19 SCC 710, wherein the law has

been laid down as under :-

"8. From the facts, it is clear that at the time when the charges were framed against the respondent, on 30-6-2009, the respondent was well under the age of 18 years as his date of birth is 5-9-1991. Firstly, it was not disputed that the charges were never proved against the respondent as the girl and her parents did not depose against the respondent, resulting in his acquittal on 24-11-2011. Even if the allegations were found to be true, then too, the respondent could not have been deprived of getting a job on the basis of such charges as the same had been committed while the respondent was juvenile. The thrust of the legislation i.e. the Juvenile Justice (Care and Protection of Children) Act, 2000 as well as the Juvenile Justice (Care and Protection of Children) Act, 2015 is that even if a juvenile is convicted, the same should be obliterated, so that there is no stigma with regard to any crime committed by such person as a juvenile. This is with the clear object to reintegrate such juvenile back in the society as a normal person, without any stigma. Section 3 of the Juvenile Justice (Care and Protection of Children) Act, 2015 lays down guidelines for the Central Government, State Governments, the Board and other agencies while implementing the provisions of the said Act. In clause (xiv) of Section 3, it is clearly provided as follows:

"3. (xiv) Principle of fresh start: All past records of any child under the juvenile justice system should be erased except in special circumstances."

9. In the present case, it is an admitted fact that the respondent was a minor when the charges had been framed against him of the offences under Sections 354, 447 and 509 IPC. It is also not disputed that he was acquitted of the charges. However, even if he had been convicted, the same could not have been held against him for getting a job, as admittedly, he was a minor when the alleged offences were committed and the charges had been framed against him. Section 3(xiv) provides for the same and the exception of special circumstances does not apply to the facts of the present case."

16. While dealing with the identical issue, the Hon'ble Apex Court has held that even the juvenile is convicted, that would not be any ground to disqualify him for getting a job, if he was minor at the time of committal of the offence.

17. Placing reliance on the above, the coordinate Division Bench of this court in Writ A No. 9462 of 2025, Navodaya Vidhyalaya

Samiti and 2 Others Vs Pundarikaksh Dev Pathak and Another, decided on 16-10-2025, has held in paragraph no. 22 as under :-

"22. From the above discussion, it is crystal clear that even conviction of a juvenile has been found to be irrelevant qua his services and the present case stands on much better footings where trial against the petitioner is pending. Further, as per judgment of Hon'ble Supreme Court in the case of Ramesh Bishnoi (supra), even requirement of disclosing the details of criminal prosecution faced by a juvenile is violative of right to privacy and right to reputation of child, guaranteed under the Constitution of India, and therefore, it is not expected of a juvenile to disclose such details. Same proposition has been laid down by this Court in the case of Shivam Maurya (supra) and the judgment of Hon'ble the Supreme Court in the case of Ramesh Bishnoi (supra) as well as in the case of Shivam Maurya (supra) are being consistently followed by this Court. Reference to the judgement of a learned Single Judge of this Court in Abhishek Kumar Yadav vs. Union of India and 3 others, 2022 (6) ADJ 564, can also be made in this regard. "

18. It is abundantly clear that not only the pendency of a criminal case against the juvenile delinquent, but, even if he is convicted, the same would have no bearing so far as the appointment in the job, government or private is concerned.

19. Now, coming to the next question that whether pendency of the final report in a criminal case for decision before the trial court, would create any hindrance or bar for getting the job?

20. Time and again, there are certain rules framed that if a criminal case is pending, that would disqualify for appointment on the post in government job. After a criminal case is registered and investigation is completed, resulted into filing of the final report, would infact, prima-facie shows that there is no involvement of such accused or person in the alleged crime, unless such final report is rejected by the trial court.

21. In our country, it is truth that because of the heavy pendency of the cases, the trial courts are overburdened and for these

reasons, cases remain pending to be decided, for a long period. Therefore, the question arises that whether in case of specific circumstances like the present, if the Investigating Officer does not find the correctness in the allegations or any substantial evidence against such accused person, files final report and that remains pending consideration for a long period of time, would come into way of getting the job for such person. Infact, the fate of a person, whose career is on stake, cannot be thrown to suffer for there being any material reason. Assuming, if the trial court accepts the final report at a belated stage, such accused person, must suffer irreparable loss and injury, which cannot be compensated by any means. Infact this can never be the intent of any law.

22. It is of worth consideration that if the charges are not serious in nature and the final reports are filed in such cases, the accused persons should not be deprived of for getting the job because of pending consideration of such final reports. Actually, if the final report is rejected and such accused person is convicted, the legal recourse is always open for the government/department concerned to dispense with the services of such employee.

23. I have noticed that in F.I.R. No. 50 of 2020, the final report no. 57 of 2020, has already been submitted by the Investigating Officer. The trial court has failed to pass any order on the final report submitted by the Investigating Officer, thus no otherwise inference can be drawn against the petitioner, in such circumstances.

24. I have also considered the law rendered by the Hon'ble Apex Court in the case of **State of Gujarat And Another Vs Surya Kant Chunilal Shah**, reported in **1999 (1) SCC 529** and I am of the view that the allegation of the involvement of the accused in

a criminal case, does not mean that he is guilty for committing of the offence as is alleged against him. The adjudication of the allegations including the evidences, will take the matter to the final conclusion, which may result into conviction or acquittal and therefore, it would be highly improper and unjusticible to deprive a person of his livelihood merely on the basis of his alleged involvement. Such decision of the deprivation, would have far reaching consequences, for an accused, which is neither justified on common sense, nor under any law. The laws are meant for putting the society in order. The application of laws can never be in vacuum, but, infact, to all the extent, it impacts human being. If the law applies and resulted into soothing the heart of a person, infact in the real sense, the object of such law succeeds. Consequently, the petitioner cannot be thrown to suffer for unlimited period of time, to wait for a job, because of the pending final report for it's adjudication.

25. In view of the aforesaid submissions and discussions, this court finds merit in the writ petition.

26. Ergo, the opposite party no. 3/Regional Director, Employees State Regional Corporation, Regional Office, Kanpur, U.P. is directed to issue the joining letter to the petitioner, ignoring the pendency of the criminal cases against him, within the period of thirty days, from the date; a certified copy of this order is produced before him.

27. The writ petition is **allowed accordingly.**

(Shree Prakash Singh, J.)

May 21, 2026

AKS